

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: MAY 18, 2005

Division: TDC

Bulk Item: Yes X No

Department:

Staff Contact Person: Maxine Pacini

AGENDA ITEM WORDING:

Approval of an Amendment to Agreement with Stuart Newman Associates, Inc. to exercise option to extend Agreement for two additional years with a cost increase for services provided.

ITEM BACKGROUND:

TDC approved same at their meeting of April 19, 2005.

PREVIOUS RELEVANT BOCC ACTION:

BOCC approved original Agreement at their meeting of July 17, 2002.

CONTRACT/AGREEMENT CHANGES:

Amendment to extend

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: \$416,745

BUDGETED: Yes X No

COST TO COUNTY: \$416,745

SOURCE OF FUNDS: TDC

REVENUE PRODUCING: Yes X No **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing X Risk Management X

DIVISION DIRECTOR APPROVAL:


(Lynda Stuart)

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Stuart Newman Associates, Inc. Contract #
 Effective Date: 10/1/05
 Expiration Date:

Contract Purpose/Description:

Approval of an Amendment to Agreement with Stuart Newman Associates, Inc. to exercise option to extend Agreement for two additional years with a cost increase for services provided.

Contract Manager: Maxine Pacini 3523 TDC # 3
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 5/18/05 Agenda Deadline 5/3/05

CONTRACT COSTS

Total Dollar Value of Contract: \$ 416,745 Current Year Portion: \$
 Budgeted? Yes ☒ No ☐ Account Codes See Attached
 Grant: \$
 County Match: \$ - - - - -

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ /yr For:
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>4/5/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Stuart</u>	<u>4/5/05</u>
Risk Management	<u>4/11/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Stuart</u>	<u>4/11/05</u>
O.M.B./Purchasing	<u>4/6/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Shirley A. Barker</u>	<u>4/7/05</u>
County Attorney	<u>4/4/05</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>S. Hutton</u>	<u>4/4/05</u>

Comments:

LINE ITEM NUMBERS FOR STUART NEWMAN ASSOCIATES FY 2006

115-75035-530340-T65E-204-X-530340
115-75035-530340-T65E-205-X-530480
115-75035-530340-T65E-205-X-530405
115-75035-530340-T65E-205-X-530310
115-75035-530340-T65E-205-X-530400
115-75035-530340-T65E-205-X-530410
115-75035-530340-T65E-205-X-530300

117-77020-530480-T67P-204-X-530480

118-78020-530480-T68P-204-X-530480

119-79020-530480-T69P-204-X-530480

120-70020-530480-T60P-204-X-530480

121-71020-530480-T61P-204-X-530480

AMENDMENT TO CONTRACT FOR PUBLIC RELATIONS

THIS CONTRACT Amendment is entered into this _____ day of _____, 2005, by and between the BOARD OF COUNTY COMMISSIONERS, Monroe County, Florida, hereinafter referred to as the County, and Stuart Newman Associates, Inc., a Florida Corporation, hereinafter referred to as FIRM;

WITNESSETH

WHEREAS, FIRM is qualified to provide public relation services which promote tourism; and

WHEREAS, County and FIRM entered into an agreement on July 17, 2002 for FIRM to provide public relations services commencing October 1, 2002 and expiring September 30, 2005; and

WHEREAS, the agreement entered into provides an option to extend agreement for an additional two year period subject to negotiation of monetary terms; and

WHEREAS, both parties desire extend agreement with an increase in compensation;

NOW AND THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. The term of this amendment to contract is for a period of two years beginning October 1, 2005 and expiring on September 30, 2007.
2. FIRM shall be compensated in an amount not to exceed \$416,745 for the period of October 1, 2005 through September 30, 2006; and \$437,582 for the period of October 1, 2006 through September 30, 2007.
3. All other provisions of the contract dated July 17, 2002 not inconsistent herewith shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

(SEAL)

Attest: Danny L. Kolhage, Clerk

Board of County Commissioners
of Monroe County


By. _____
Deputy Clerk

By _____
Mayor/Chairman

(CORPORATE SEAL)

Attest:

Stuart Newman Associates, Inc.

By. 
Secretary

By. 
President

AGREEMENT

THIS AGREEMENT is entered into this 17th day of July, 2002 by and between the BOARD OF COUNTY COMMISSIONERS, Monroe County, Florida, hereinafter referred to as the County and Stuart Newman Associates, Inc., a Florida Corporation, hereinafter referred to as FIRM;

WITNESSETH

WHEREAS, FIRM is qualified to provide public relation services which promote tourism, and

WHEREAS, the Tourist Development Council (TDC) has recommended to County that FIRM be awarded an agreement for public relation services, and

WHEREAS, the County wishes to enter into this agreement for public relation services with the FIRM,

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. TERM: The term of this agreement is for a period of three (3) years beginning October 1, 2002 and expiring on September 30, 2005. The County has an option to extend this agreement for an additional (24) month period beyond the initial award period, upon 60 days prior written notice of agreement extension to FIRM.

2. The FIRM will serve as the full-service public relations agency for the Monroe County Tourist Development Council and Monroe County. The FIRM and the public relation programs are subject to review by the Monroe County Tourist Development Council.

3. SCOPE OF SERVICES: The FIRM shall provide the following:

A. Key Personnel: This agreement is a professional services agreement with expectation that principal personnel performing the services are those personnel listed. Notice of any change in personnel shall be sent to the Tourist Development Council and the Board of County Commissioners. The principals assigned are the following:

- 1) Stuart Newman, President
- 2) Andrew Newman, Senior Vice President and Account Supervisor

MINIMUM STAFF PERSONNEL ASSIGNED:

Account Manager
Account Executive
Media Coordinator
Lower Keys & Key West Liaison
Upper Keys & Middle Keys Liaison
Finance/Account/Clerical Support

B. At least one of the principals or Account Manager shall meet with the Monroe County Tourist Development Council (TDC) at all regularly scheduled meetings of the TDC and at any other times as directed by the TDC.

C. The FIRM agrees to assign a Public Relation's Account Supervisor who will devote such time and effort as necessary to the account on a priority basis, including full time when required. Duties of the Account Supervisor will include contact as required with the Chairman or Vice-Chairman of the TDC; Marketing Director or other designee.

Other duties include consultations with TDC Advisory Committees from the five districts, TDC umbrella programs and/or other tourism industry organizations within the Florida Keys as directed by the TDC as it relates to the development of an effective marketing program for the Florida Keys.

- D. Provide staff services to manage communications to develop awareness, promote favorable image and goodwill for the TDC.
- E. Provide the development of favorable national and international publicity.
- F. Provide the establishment and maintenance of contacts with print and broadcast media.
- G. Provide the preparation of press kits.
- H. Provide the development and distribution of photographs and news releases for trade and consumer media..
- I. Provide preparation of public relations in developing of TDC marketing plan.
- J. Provide representation of TDC at selected trade shows, sales/media missions, FAM tours, media workshops and journalist conferences.
- K. Provide liaison public relation services with private tourism sector.
- L. Provide the establishment and management of agreements with sub - agencies for international, specialty or other public relation markets and/or programs.
- M. Address emergency situations that affect tourism and provide a crisis management program.
- N. Provide editorial support for Internet web site.
- O. Provide publicity before, during and after special events.
- P. Provide assistance to the Florida Keys Film Commission.
- Q. Maintaining appropriate records of print clippings and broadcast coverage.
- R. Provide periodic reports on public relations activities.
- S. Provide development and maintenance of a videotape/still photo libraries.
- T. Provide a measurability process to evaluate the public relation programs.
- U. Provide implementation of such services as outlined within the objectives, goals and strategies of the annual marketing plan.

- V. Performing such other public relations activities as required by the TDC.

4. COMPENSATION: Compensation and expenses will be paid, subject to availability of Tourist Development Tax funds and approved purchase orders as follows:

A. The FIRM shall be compensated for public relation activities that have been approved through the annual marketing plan.

B. The FIRM shall have pre-approval on all other projects and materials by the TDC Marketing Director, TDC Chairman or TDC according to TDC and Monroe County Procurement Policies.

C. The FIRM shall have all fees and expenses placed on invoices that have the proper approved purchase order account number and follow County requirements for payment.

D. The FIRM shall be compensated for the performance of all public relations staffed services outlined within the scope of services as defined by this agreement and the approved FY Marketing Plan for an agency fee of:

First Year	<u>\$360,000</u>
Second Year	<u>\$378,000</u>
Third Year	<u>\$396,900</u>

The County shall have the option of renewing this agreement for two (2) years under the same conditions subject to negotiation of monetary terms. Monroe County's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the BOCC.

E. The FIRM will be reimbursed at cost for all actual expenses incurred for media materials, postage, shipping, clipping services, special event support, research, web site maintenance, promotional items, seminars or show registrations, sub-agency agreements, entertainment of media, broadcast support, photography, broadcast production, travel expenses and all other projects or production materials that are necessary for the fulfillment of this agreement and have been approved in advance by the TDC according to TDC and Monroe County Procurement Policies. The FIRM's telecommunication services are included in their professional fees.

F. The FIRM may provide Public Relation Services above and beyond their normal requirements as defined by this agreement and the approved FY Marketing Plan, for TDC funded special events, turnkey or otherwise, as approved by the TDC in advance. Such services will be charged back to the event upon approval of event coordinator and the TDC.

G. Contracted services are agreements entered into by Stuart Newman Associates for services to be provided for Monroe County which include, but are not limited to international public relations, local liaisons and other services properly authorized in advance by the Tourist Development Council and Board of County Commissioners.

H. All reimburseable expenditures paid by the County shall be subject to the annual public relations expense budget approved by the Tourist Development Council and Board of County Commissioners.

I. The FIRM shall submit to the Tourist Development Council monthly billings for one-twelfth (1/12) of the annual agency fee for staff and agreement services. Reimburseable expenditures shall be invoiced and billed to the County for payment on a monthly basis. The County shall be responsible for payment of all authorized fees and costs due the FIRM within a thirty (30) day period of receiving invoices.

5. RECORDS - ACCESS AND AUDITS: The FIRM shall maintain adequate and complete records to justify all charges, expenses and costs incurred in performing the work for at least three (3) years after completion of this agreement. The County shall have access to such books, records, and documents concerning the contracted services. The access to and inspection of such books, records, and documents by the TDC/County shall occur at any reasonable time. FIRM understands that it shall be responsible for repayment of any and all audit exceptions identified by TDC/County. Any current or subsequent agreement awards will be offset by the amount of any audit exceptions. In the event there are not funds still held by the TDC and County for a agreement award, the amount of audit exception shall be billed to FIRM who shall promptly pay same.

6. GENERAL PROVISIONS:

A. Public Relations Agency of Record: The FIRM shall act as the agency of record of the County and TDC for all public relations services, except as mutually agreed otherwise, and for the performance of related or special services as requested by the TDC.

B. County shall indemnify and hold FIRM harmless from any suits, claims, damages, costs, or expenses arising in connection with false, defamatory, or otherwise objectionable public relations material, including material which invades the privacy of individuals, which public relations material has been suggested, ordered or approved by TDC. FIRM agrees to indemnify and hold harmless Monroe County against any claim of liability, losses and causes of action which may arise out of the fulfillment of the agreement. It agrees to pay all claims and losses and shall defend all suits filed due to the negligent acts, errors or omissions of its employees and/or agents, including related court costs.

C. Property Rights: The County shall own and have all rights subject to regulations and talent agreements, to any and all copy, photos, films and other promotional materials which the FIRM prepared or purchased for the County's account pursuant to a program, campaign, or project which the TDC has approved in writing, regardless of whether such material was published, displayed, broadcast, distributed or otherwise presented prior to the termination of the agreement, provided the County has paid for same in accordance with the provisions of this agreement. Rejected concepts and layouts will not be charged to County.

7. APPROVAL AND CHANGES: The TDC shall have the sole and exclusive right to approve, modify, reject, or cancel any and all plans, proposals, submissions and other work in progress, in which case the TDC's directions shall be immediately implemented. However, nothing in this agreement shall be construed as requiring the FIRM to violate any contractual commitments to media made on the TDC's behalf. All contractual commitments to media require the TDC's prior written approval. The County shall only be liable for charges approved in writing prior to the FIRM entering into such contractual commitment.

8. TERMINATION: Either party shall have the right to cancel this agreement at its sole discretion upon 120 days written notice to the other party. FIRM shall deliver to the County all papers and other material related to the work performed under this agreement upon termination thereof.

9. EXCLUSIVE REPRESENTATION: The FIRM agrees that it will not represent any private resort; attraction; event or other destination within Monroe County or other County or city destinations within the State of Florida without approval from the TDC and County.

FIRM shall act at all times herein as independent contractor, and nothing contained herein shall be construed to create the relation of principal agent or employer and employee, between County and FIRM.

10. DISCLOSURE OF FINANCIAL INTEREST: The FIRM agrees to disclose within thirty (30) days of the execution of this agreement any existing financial interest in the business of its suppliers or FIRMS utilized in fulfillment of this agreement, and shall disclose said interests as they may arise from time to time.

11. LAWS AND REGULATIONS: It shall be understood and agreed that any and all services, materials and equipment shall comply fully with all local, state and federal laws and regulations.

12. TAXES: The County and TDC are exempt from Federal Excise and State of Florida Sales Tax.

13. FINANCE CHARGES: The County and TDC will not be responsible for any finance charges.

14. RELATION OF COUNTY/TDC: It is the intent of the parties hereto that Stuart Newman Associates shall be legally considered as an independent contractor and that neither it nor its employees shall, under any circumstances, be considered servants or agents of the County and TDC and the County and TDC shall at no time be legally responsible for any negligence on the part of Stuart Newman Associates, its employees or agents, resulting in either bodily or personal injury or property damage to any individual, FIRM or corporation.

15. DISCLOSURE: The FIRM shall be required to list any or all potential conflicts or interest, as defined by Florida Statute 112 and Monroe County Code and shall disclose to the County and TDC all actual or proposed conflicts of interest, financial or otherwise, direct or indirect, involving any client's interest which may conflict with the interest of the County and TDC.

16. FORCE MAJEURE: FIRM shall not be liable for delay in performance or failure to perform, in whole or in part, the services due to the occurrence of any contingency beyond its control or the control of any of its

subcontractors or suppliers, including labor dispute, strike, labor shortage, war or act of war, whether an actual declaration thereof if made or not, insurrection, sabotage, riot or civil commotion, act of public enemy, epidemic, quarantine restriction, accident, fire, explosion, storm, flood, drought or other act of God, act of any governmental authority, jurisdictional action, or insufficient supply of fuel, electricity, or materials or supplies, or technical failure where FIRM has exercised reasonable care in the prevention thereof, and any such delay or failure shall not constitute a breach of this agreement.

17. ASSIGNMENT: The FIRM shall not assign, transfer, convey, sublet or otherwise dispose of this agreement, or of any or all of its rights, title or interest therein, or its power to execute such agreement to any person, company or corporation without prior written consent of the County.

18. COMPLIANCE WITH LAWS-NONDISCRIMINATION: The FIRM shall comply with all international, federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, age, or national origin in the performance of work under this agreement. This agreement shall be subject to all international, federal, state, and local laws and ordinances.

19. INSURANCE: The FIRM shall maintain the following required insurance throughout the entire term of this agreement and any extensions. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of the FIRM to maintain the required insurance shall not extend any deadlines specified in this agreement and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for FIRM's failure to maintain the required insurance.

The FIRM shall provide, to the County, as satisfactory evidence of the required insurance, either:

- * Certificate of Insurance
- or
- * A Certified copy of the actual insurance policy

The County, at its sole option, has the right to request a certified copy of any or all insurance policies required by this agreement.

All Insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

The acceptance and/or approval of the FIRM's insurance shall not be construed as relieving the FIRM from any liability or obligation assumed under this agreement or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies, except for Workers' Compensation.

Any deviations from these General Insurance Requirements must be requested in writing on the County prepared from entitled "Request for Waiver of Insurance Requirements" and approved by Monroe County Risk Management.

A. Prior to the commencement of work governed by this agreement the FIRM shall obtain Workers' Compensation Insurance with limits sufficient to respond to Florida Statute 440.

In addition, the FIRM shall obtain Employers' Liability Insurance with limits of not less than:

\$100,000 Bodily Injury by Accident
\$500,000 Bodily Injury by Disease
\$100,000 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the agreement.

Coverage shall be provided by a company or companies authorized to transact business in the state of Florida and the company or companies must maintain a minimum rating of A-V1, as assigned by the A.M. Best Company.

B. Prior to the commencement of work governed by this agreement, the FIRM shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the agreement and include, as a minimum:

- * Premises Operations
- * Products and Completed Operations
- * Blanket Contractual Liability
- * Personal Injury Liability
- * Expanded Definition of Property Damage

The minimum limits acceptable shall be:

\$1,000,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

\$ 500,000 per person

\$1,000,000 per Occurrence

\$ 100,000 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this agreement. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

C. Recognizing that the work governed by this agreement requires the use of vehicles, the FIRM, prior to the commencement of work, shall obtain Vehicle Liability Insurance. Coverage shall be maintain throughout the life of the agreement and include, as a minimum, liability coverage for:

- * Owned, Non-Owned, and Hired Vehicles

The Minimum limits acceptable shall be:

\$300,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

\$100,000 per Person
\$300,000 per Occurrence
\$ 50,000 Property Damage

20. GOVERNING LAW/VENUE: This agreement shall be governed and construed by and in accordance with the laws of the State of Florida and constitutes the entire agreement between the County and FIRM. Venue for any dispute shall be in Monroe County.

21. ENTIRE AGREEMENT AMENDMENT: This writing embodies the entire agreement and understanding between the parties hereto, and there are not other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. Any amendment to this agreement shall be in writing recommended by the TDC and approved by the County and signed by both parties.

22. SEVERABILITY: If any provisions of this agreement shall be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement, or the application of such provision other than those as to which it is invalid or unenforceable, shall not be affected thereby; and each provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

23. AUTHORITY: Each of the signatories for the FIRM below certifies and warrants that:

a) The FIRM's name in the agreement is the full name as designated in its corporate charter, and b) they are empowered to act and contract for the contractor and c) this agreement has been approved by the FIRM's Board of Directors.

24. ETHICS CLAUSE: FIRM warrants that he/it has not employed retained

or otherwise had act on his/its behalf any former County office or employee in violation of Section 2 or Ordinance No. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of the provision the County may, at its discretion terminate this agreement without liability and may also, at its discretion, deduct from the agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former or present County officer or employee.

25. PUBLIC ENTITY CRIME STATEMENT: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on an agreement to provide any goods or services to a public entity, may not submit a bid on an agreement with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under an agreement with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written

(SEAL)

Attest: Danny L. Kolhage, Clerk



Deputy Clerk

Board Of County Commissioners
of Monroe County




Mayor/Chairman

(CORPORATE SEAL)

Attest:

Stuart Newman Associates

By: 
President

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY


SUZANNE A. HUTTON

DATE

6/26/02